

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**AMANDA SUSAN PIRAINO**

10744 Cariuto Court  
San Diego, CA 92124

Applicant for Registered Nurse License

Respondent

Case No. 2011-822

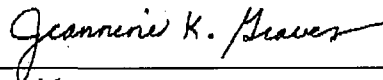
OAH No. 2011040640

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on August 26, 2011.

IT IS SO ORDERED July 26, 2011.



\_\_\_\_\_  
President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 NICOLE R. COOK  
Deputy Attorney General  
4 State Bar No. 263607  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2143  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Statement of Issues  
13 Against:

14 **AMANDA SUSAN PIRAINO**  
15 **10744 Cariuto Court**  
**San Diego, CA 92124**

16 Respondent.

Case No. 2011-822

OAH No. 2011040640

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
22 Registered Nursing. She brought this action solely in her official capacity and is represented in  
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Nicole R. Cook,  
24 Deputy Attorney General.

25 2. Respondent Amanda Piraino (Respondent) is representing herself in this proceeding  
26 and has chosen not to exercise her right to be represented by counsel.  
27  
28

3. On or about August 2, 2010, Respondent filed an application dated July 21, 2010, with the Board of Registered Nursing to obtain a registered nurse license.

## JURISDICTION

4. Statement of Issues No. 2011-822 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on April 13, 2011. A copy of Statement of Issues No. 2011-822 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2011-822. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2011-822.

9. Respondent agrees that her registered nurse license is subject to denial and she agrees to be bound by the Board of Registered Nursing (Board)'s probationary terms as set forth in the Disciplinary Order below.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONTINGENCY**

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED

The application of Respondent Amanda Piraino for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation

1 stayed and Respondent placed on probation for a period of three (3) years on the following  
2 conditions:

3 **Severability Clause.** Each condition of probation contained herein is a separate and  
4 distinct condition. If any condition of this Order, or any application thereof, is declared  
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
7 and enforceable to the fullest extent permitted by law.

8 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A  
9 full and detailed account of any and all violations of law shall be reported by Respondent to the  
10 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
11 compliance with this condition, Respondent shall submit completed fingerprint forms and  
12 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
13 as part of the licensure application process.

14 **Criminal Court Orders:** If Respondent is under criminal court orders, including  
15 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
16 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

17 2. **Comply with the Board's Probation Program.** Respondent shall fully  
18 comply with the conditions of the Probation Program established by the Board and cooperate with  
19 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
20 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
21 more than 15 days of any address change and shall at all times maintain an active, current license  
22 status with the Board, including during any period of suspension.

23 Upon successful completion of probation, Respondent's license shall be fully restored.

24 3. **Report in Person.** Respondent, during the period of probation, shall  
25 appear in person at interviews/meetings as directed by the Board or its designated representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency  
27 or practice as a registered nurse outside of California shall not apply toward a reduction of this  
28 probation time period. Respondent's probation is tolled, if and when she resides outside of

1 California. Respondent must provide written notice to the Board within 15 days of any change of  
2 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been licensed  
5 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
6 information regarding the status of each license and any changes in such license status during the  
7 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing  
8 license during the term of probation.

9           **5. Submit Written Reports.** Respondent, during the period of probation,  
10 shall submit or cause to be submitted such written reports/declarations and verification of actions  
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
13 Program. Respondent shall immediately execute all release of information forms as may be  
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
16 state and territory in which she has a registered nurse license.

17           **6. Function as a Registered Nurse.** Respondent, during the period of  
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered nursing"  
21 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
22 non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice nursing  
24 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

25 If Respondent has not complied with this condition during the probationary term, and  
26 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
27 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
28 extension of Respondent's probation period up to one year without further hearing in order to

1 comply with this condition. During the one year extension, all original conditions of probation  
2 shall apply.

3           **7. Employment Approval and Reporting Requirements.** Respondent shall  
4 obtain prior approval from the Board before commencing or continuing any employment, paid or  
5 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
6 performance evaluations and other employment related reports as a registered nurse upon request  
7 of the Board.

8           Respondent shall provide a copy of this Decision to her employer and immediate  
9 supervisors prior to commencement of any nursing or other health care related employment.

10           In addition to the above, Respondent shall notify the Board in writing within seventy-two  
11 (72) hours after she obtains any nursing or other health care related employment. Respondent  
12 shall notify the Board in writing within seventy-two (72) hours after she is terminated or  
13 separated, regardless of cause, from any nursing, or other health care related employment with a  
14 full explanation of the circumstances surrounding the termination or separation.

15           **8. Supervision.** Respondent shall obtain prior approval from the Board  
16 regarding Respondent's level of supervision and/or collaboration before commencing or  
17 continuing any employment as a registered nurse, or education and training that includes patient  
18 care.

19           Respondent shall practice only under the direct supervision of a registered nurse in good  
20 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
21 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
22 approved.

23           Respondent's level of supervision and/or collaboration may include, but is not limited to the  
24 following:

25           (a) Maximum - The individual providing supervision and/or collaboration is present in  
26 the patient care area or in any other work setting at all times.

27           (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
28 care unit or in any other work setting at least half the hours Respondent works.

1 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
2 person communication with Respondent at least twice during each shift worked.

3 (d) Home Health Care - If Respondent is approved to work in the home health care  
4 setting, the individual providing supervision and/or collaboration shall have person-to-person  
5 communication with Respondent as required by the Board each work day. Respondent shall  
6 maintain telephone or other telecommunication contact with the individual providing supervision  
7 and/or collaboration as required by the Board during each work day. The individual providing  
8 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
9 patients' homes visited by Respondent with or without Respondent present.

10 9. **Employment Limitations.** Respondent shall not work for a nurse's  
11 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
12 traveling nurse, or for an in-house nursing pool.

13 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
14 registered nursing supervision and other protections for home visits have been approved by the  
15 Board. Respondent shall not work in any other registered nursing occupation where home visits  
16 are required.

17 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
18 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
19 and/or unlicensed assistive personnel on a case-by-case basis.

20 Respondent shall not work as a faculty member in an approved school of nursing or as an  
21 instructor in a Board approved continuing education program.

22 Respondent shall work only on a regularly assigned, identified and predetermined  
23 worksite(s) and shall not work in a float capacity.

24 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
25 request documentation to determine whether there should be restrictions on the hours of work.

26 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
27 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
28 than six months prior to the end of her probationary term.



1 Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
2 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
3 above required course(s). The Board shall return the original documents to Respondent after  
4 photocopying them for its records.

5 11. **Violation of Probation.** If Respondent violates the conditions of her  
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside  
7 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

8 If during the period of probation, an accusation or petition to revoke probation has been  
9 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
10 an accusation or petition to revoke probation against Respondent's license, the probationary  
11 period shall automatically be extended and shall not expire until the accusation or petition has  
12 been acted upon by the Board.

13 12. **License Surrender.** During Respondent's term of probation, if she ceases  
14 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
15 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
16 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
17 take any other action deemed appropriate and reasonable under the circumstances, without further  
18 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no  
19 longer be subject to the conditions of probation.

20 Surrender of Respondent's license shall be considered a disciplinary action and shall  
21 become a part of Respondent's license history with the Board. A registered nurse whose license  
22 has been surrendered may petition the Board for reinstatement no sooner than the following  
23 minimum periods from the effective date of the disciplinary decision:

24 (1) Two years for reinstatement of a license that was surrendered for any reason other  
25 than a mental or physical illness; or

26 (2) One year for a license surrendered for a mental or physical illness.

27 13. **Physical Examination.** Within 45 days of the effective date of this  
28 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or

1 physician assistant; who is approved by the Board before the assessment is performed, submit an  
2 assessment of the Respondent's physical condition and capability to perform the duties of a  
3 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
4 medically determined, a recommended treatment program will be instituted and followed by the  
5 Respondent with the physician, nurse practitioner, or physician assistant providing written reports  
6 to the Board on forms provided by the Board.

7 If Respondent is determined to be unable to practice safely as a registered nurse, the  
8 licensed physician, nurse practitioner, or physician assistant making this determination shall  
9 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
10 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
11 immediately cease practice and shall not resume practice until notified by the Board. During this  
12 period of suspension, Respondent shall not engage in any practice for which a license issued by  
13 the Board is required until the Board has notified Respondent that a medical determination  
14 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
15 of this probationary time period.

16 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
17 requirement, Respondent shall immediately cease practice and shall not resume practice until  
18 notified by the Board. This period of suspension will not apply to the reduction of this  
19 probationary time period. The Board may waive or postpone this suspension only if significant,  
20 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
21 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
22 Only one such waiver or extension may be permitted.

23 14. **Participate in Treatment/Rehabilitation Program for Chemical**  
24 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
25 period or shall have successfully completed prior to commencement of probation a Board-  
26 approved treatment/rehabilitation program of at least six months duration. As required, reports  
27 shall be submitted by the program on forms provided by the Board. If Respondent has not  
28 completed a Board-approved treatment/rehabilitation program prior to commencement of

1 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
2 a program. If a program is not successfully completed within the first nine months of probation,  
3 the Board shall consider Respondent in violation of probation.

4 Based on Board recommendation, each week Respondent shall be required to attend at least  
5 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,  
6 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.  
7 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be  
8 added. Respondent shall submit dated and signed documentation confirming such attendance to  
9 the Board during the entire period of probation. Respondent shall continue with the recovery plan  
10 recommended by the treatment/rehabilitation program or a licensed mental health examiner  
11 and/or other ongoing recovery groups.

12 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
13 shall completely abstain from the possession, injection or consumption by any route of all  
14 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
15 the same are ordered by a health care professional legally authorized to do so as part of  
16 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
17 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
18 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
19 medication will no longer be required, and the effect on the recovery plan, if appropriate.

20 Respondent shall identify for the Board a single physician, nurse practitioner or physician  
21 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and  
22 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-  
23 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
24 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances  
25 considered addictive have been prescribed, the report shall identify a program for the time limited  
26 use of any such substances.

27 The Board may require the single coordinating physician, nurse practitioner, or physician  
28 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive

1 medicine.

2           16.     **Submit to Tests and Samples.** Respondent, at her expense, shall  
3 participate in a random, biological fluid testing or a drug screening program which the Board  
4 approves. The length of time and frequency will be subject to approval by the Board.  
5 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
6 number at all times. Respondent shall also ensure that messages may be left at the telephone  
7 number when she is not available and ensure that reports are submitted directly by the testing  
8 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
9 to the Board by the program and Respondent shall be considered in violation of probation.

10           In addition, Respondent, at any time during the period of probation, shall fully cooperate  
11 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
12 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
13 hypnotics, dangerous drugs, or other controlled substances.

14           If Respondent has a positive drug screen for any substance not legally authorized and not  
15 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
16 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
17 practice pending the final decision on the petition to revoke probation or the accusation. This  
18 period of suspension will not apply to the reduction of this probationary time period.

19           If Respondent fails to participate in a random, biological fluid testing or drug screening  
20 program within the specified time frame, Respondent shall immediately cease practice and shall  
21 not resume practice until notified by the Board. After taking into account documented evidence  
22 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
23 suspend Respondent from practice pending the final decision on the petition to revoke probation  
24 or the accusation. This period of suspension will not apply to the reduction of this probationary  
25 time period.

26           17.     **Mental Health Examination.** Respondent shall, within 45 days of the  
27 effective date of this Decision, have a mental health examination including psychological testing  
28 as appropriate to determine her capability to perform the duties of a registered nurse. The

1 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
2 practitioner approved by the Board. The examining mental health practitioner will submit a  
3 written report of that assessment and recommendations to the Board. All costs are the  
4 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
5 result of the mental health examination will be instituted and followed by Respondent.

6 If Respondent is determined to be unable to practice safely as a registered nurse, the  
7 licensed mental health care practitioner making this determination shall immediately notify the  
8 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
9 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
10 practice and may not resume practice until notified by the Board. During this period of  
11 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
12 is required, until the Board has notified Respondent that a mental health determination permits  
13 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
14 probationary time period.

15 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
16 requirement, Respondent shall immediately cease practice and shall not resume practice until  
17 notified by the Board. This period of suspension will not apply to the reduction of this  
18 probationary time period. The Board may waive or postpone this suspension only if significant,  
19 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
20 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
21 Only one such waiver or extension may be permitted.

22 **18. Therapy or Counseling Program.** Respondent, at her expense, shall  
23 participate in an on-going counseling program until such time as the Board releases her from this  
24 requirement and only upon the recommendation of the counselor. Written progress reports from  
25 the counselor will be required at various intervals.

1 ACCEPTANCE

2 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
3 stipulation and the effect it will have on my registered nurse license. I enter into this Stipulated  
4 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
5 bound by the Decision and Order of the Board of Registered Nursing.

6  
7 DATED: May 20, 2011

Amanda Piraino  
8 AMANDA PIRAINO  
9 Respondent

10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
12 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
13 Affairs.

14 DATED: May 20, 2011

15 Respectfully submitted,

16 KAMALA D. HARRIS  
17 Attorney General of California  
18 JAMES M. LEDAKIS  
19 Supervising Deputy Attorney General

20 Nicole R. Cook  
21 NICOLE R. COOK  
22 Deputy Attorney General  
23 Attorneys for Complainant

24 SD2011700418  
25 80502635.doc  
26  
27  
28

**Exhibit A**

**Statement of Issues No. 2011-822**

25 OCT 2011  
REGIONAL OFFICE  
FALL 2011

FALL 2011

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2105  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
13 Against:

14 **AMANDA SUSAN PIRAINO**  
15 **1024 CHALCEDONY STREET, APT. 1**  
**SAN DIEGO, CA 92109**

16 Respondent.

Case No. 2011-822

**STATEMENT OF ISSUES**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about August 2, 2010, the Board of Registered Nursing, Department of  
24 Consumer Affairs received an application for a Registered Nursing License from Amanda Susan  
25 Piraino (Respondent). On or about July 21, 2010, Amanda Susan Piraino certified under penalty  
26 of perjury to the truthfulness of all statements, answers, and representations in the application.

27 The Board denied the application on November 5, 2010.

28 ///



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

## 8

9

10  
11

12  
13  
14  
15

16

17

18  
19

20

21  
22

22

23  
24

25

26

27

28

1 7. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted by a  
3 board within the department pursuant to law to deny an application for a license or  
4 to suspend or revoke a license or otherwise take disciplinary action against a  
5 person who holds a license, upon the ground that the applicant or the licensee has  
6 been convicted of a crime substantially related to the qualifications, functions, and  
7 duties of the licensee in question, the record of conviction of the crime shall be  
8 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
9 and the board may inquire into the circumstances surrounding the commission of  
10 the crime in order to fix the degree of discipline or to determine if the conviction is  
11 substantially related to the qualifications, functions, and duties of the licensee in  
12 question.

13 As used in this section, "license" includes "certificate," "permit,"  
14 "authority," and "registration."

15 8. Section 2761 of the Code states:

16 The board may take disciplinary action against a certified or licensed nurse  
17 or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct, which includes, but is not limited to, the  
19 following:

20 ....

21 (f) Conviction of a felony or of any offense substantially related to the  
22 qualifications, functions, and duties of a registered nurse, in which event the record  
23 of the conviction shall be conclusive evidence thereof.

24 9. Section 2762 of the Code states:

25 In addition to other acts constituting unprofessional conduct within the meaning  
26 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
27 licensed under this chapter to do any of the following:

28 ....

21 (b) Use any controlled substance as defined in Division 10 (commencing with  
22 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
23 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
24 dangerous or injurious to himself or herself, any other person, or the public or to the  
25 extent that such use impairs his or her ability to conduct with safety to the public the  
26 practice authorized by his or her license.

27 (c) Be convicted of a criminal offense involving the prescription, consumption,  
28 or self-administration of any of the substances described in subdivisions (a) and (b) of  
this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

///

1 10. Section 2765 of the Code states:

2 A plea or verdict of guilty or a conviction following a plea of nolo  
3 contendere made to a charge substantially related to the qualifications, functions  
4 and duties of a registered nurse is deemed to be a conviction within the meaning of  
5 this article. The board may order the license or certificate suspended or revoked,  
6 or may decline to issue a license or certificate, when the time for appeal has  
7 elapsed, or the judgment of conviction has been affirmed on appeal or when an  
8 order granting probation is made suspending the imposition of sentence,  
9 irrespective of a subsequent order under the provisions of Section 1203.4 of the  
10 Penal Code allowing such person to withdraw his or her plea of guilty and to enter  
11 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
12 accusation, information or indictment.

### 13 REGULATIONS

14 11. California Code of Regulations, title 16, section 1444, states:

15 A conviction or act shall be considered to be substantially related to the  
16 qualifications, functions or duties of a registered nurse if to a substantial degree it  
17 evidences the present or potential unfitness of a registered nurse to practice in a  
18 manner consistent with the public health, safety, or welfare.

19 12. California Code of Regulations, title 16, section 1445, states in pertinent part:

20 (a) When considering the denial of a license under Section 480 of the code,  
21 the board, in evaluating the rehabilitation of the applicant and his/her present  
22 eligibility for a license will consider the following criteria:

23 (1) Nature and severity of the act(s) or crimes(s) under consideration as  
24 grounds for denial.

25 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)  
26 under consideration as grounds for denial which also could be considered as  
27 grounds for denial under Section 480 of the code..

28 (3) The time that has elapsed since commission of the act(s) or crime(s)  
referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole,  
probation, restitution, or any other sanctions lawfully imposed against the  
applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

....

///

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Unprofessional Conduct – Driving Under the Influence and Hit and Run  
3 on May 8, 2005)

4 13. Respondent's application is subject to denial under Code sections 480, subdivision  
5 (a)(3)(A) and 2761, subdivision (d) for unprofessional conduct, in that she was stopped for a  
6 driving under the influence of alcohol and hit and run, crimes substantially related to the  
7 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

8 14. On or about June 10, 2005, in the Municipal Court of the City of Eugene, Oregon,  
9 Lane County, Oregon, in Case No. 0511123, Respondent was convicted on her plea of guilty or  
10 no contest of violating Oregon Vehicle Code section 813.010 (Driving Under the Influence of  
11 Alcohol and Hit and Run). The court placed respondent on diversion and withheld entry of  
12 judgment of conviction for one year. On or about June 15, 2006, after finding Respondent  
13 successfully completed the court-ordered DUI diversion, the Court dismissed case.

14 15. The circumstances that led to the conviction are that on or about May 8, 2005, at  
15 approximately 0139 hours, Eugene, Oregon Police Department Officers were dispatched to a  
16 report of a hit and run collision at 3324 W. 18th Street in Eugene, Oregon. Upon arrival, officers  
17 made contact with A.B., who advised that a neighbor heard a loud noise coming from outside and  
18 woke A.B. up to advise him that it appeared someone had hit A.B.'s vehicle. A Volkswagen  
19 hood emblem was observed lying on the grass near A.B.'s vehicle. Another officer advised that  
20 he had located the suspect vehicle who had front end damage and was missing the hood emblem.

21 16. Officers made contact with Respondent who advised officers that she drank too much  
22 and admitted crashing into another vehicle on her way home that evening. Officers placed  
23 Respondent under arrest and transported her to City Hall where Respondent breathed into an  
24 intoxilyzer which measured Respondent's blood alcohol at 0.13%. Officers issued Respondent  
25 citation No. 466448 which ordered Respondent to appear in court on May 23, 2005.

26 ///

27 ///

1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (February 2, 2009 Criminal Conviction for Driving Under the Influence of Alcohol with a  
3 Blood Alcohol Level of 0.8% or More on November 15, 2008)

4 17. Respondent's application is subject to denial under Code sections 480, subdivision  
5 (a)(1) and 2761, subdivision (f) in that Respondent was convicted of a crime that is substantially  
6 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
7 follows:

8 18. On or about February 2, 2009, in the Superior Court of California, County of San  
9 Diego, Central Division, in Case No. M068851, Respondent was convicted on her plea of guilty  
10 of violating Vehicle Code section 11352(b) (Driving Under the Influence of Alcohol with a Blood  
11 Alcohol Level of 0.08% or More), a misdemeanor. The circumstances are as follows:

12 19. On or about November 15, 2008, at approximately 2235 hours, San Diego Police  
13 Officers were dispatched to a domestic violence incident involving a possible hit and run. While  
14 in the area of 4300 Montalvo Street, San Diego, CA, officers located the vehicle possibly  
15 involved in the hit and run. Respondent was detained and placed on the back of a patrol car.  
16 Officers then drove to the reporting party's (R.P.) location at 4344 Montalvo Street, #7, San  
17 Diego, and contacted the R.P., who showed officers where his vehicle was parked in the alley of  
18 his apartment complex. The vehicle's rear license plate was bent upwards and the vehicle had  
19 scratches that, according to the R.P., were not there prior to Respondent arriving at his home.

20 20. The R.P. further told officers that earlier that same evening, Respondent had driven to  
21 his house and began banging on his front door. R.P. told Respondent to leave and that he did not  
22 want to talk to her. Respondent left and, shortly thereafter, R.P. heard a commotion coming from  
23 the parking lot of his apartment complex. R.P. then observed Respondent leaving the parking lot.

24 ///

25 ///

26 ///

27 ///

28

21. Respondent refused to complete a Standardized Field Sobriety Test and failed to cooperate with officers when asked to exit the patrol car. Respondent had to be lifted under her arms by officers and taken out of the back of the patrol car. Another patrol car transported Respondent to headquarters for a mandatory blood or breath sample. Once at headquarters, Respondent provided a blood sample and was transported to Las Colinas Women's Facility. Respondent's blood alcohol level came back at 0.19%.

22. As a result of the above conviction, Respondent was placed on summary probation for five (5) years, ordered to pay various fees and fines, ordered to serve five (5) days in the Public Service Program, and ordered to enroll in and complete a three (3) month First Conviction Program.

### **THIRD CAUSE FOR DENIAL OF APPLICATION**

#### **(Use of Alcohol in a Manner Dangerous to Himself and to the Public)**

23. Respondent's application is subject to denial under Code sections 480(a)(3)(A) and 2762(b) in that on November 15, 2008, Respondent used alcohol in a manner dangerous to herself and the public when she drove her car while under the influence of alcohol, with a blood alcohol content of 0.19 percent. The circumstances are more specifically set forth in paragraph 18 through 22, above, and incorporated herein by reference as though fully set forth herein.

### **FOURTH CAUSE FOR DENIAL OF APPLICATION**

#### **(Unprofessional Conduct – Conviction of a Drug or Alcohol Related Crime)**

24. Respondent's application is subject to denial under Code sections 480(a)(3)(A) and 2762(c) in that she was convicted of a crime involving the consumption of alcohol when on February 2, 2009, Respondent was convicted of driving under the influence of alcohol. The circumstances are more specifically set forth in paragraph 18 through 22 above, and incorporated herein by reference as though fully set forth herein.

///

///

///

///

**FIFTH CAUSE FOR DENIAL OF APPLICATION**

**(Unprofessional Conduct – Dishonesty)**

25. Respondent's application is subject to denial under Code sections 480(a)(2) and 2761(e), in that on or about July 27, 2010, in a letter of explanation regarding the circumstances surrounding her arrests and conviction, Respondent wrote as to the incident that took place in San Diego, CA, that "... The incident can be described as follows; earlier that evening my boyfriend of two years and I had broken up. I was emotionally distraught, depressed, and alone. I made the wrong decision of using alcohol to try to pacify these feelings. I had left his house in San Diego California and drove to a local bar where I proceeded to drink numerous alcoholic beverages. Fully impaired, I got behind the wheel of my vehicle and drove back towards his home. Having a moment of clarity I realized my impaired state, I slowed down, accidentally hit a curb, found an empty parking space, and pulled my vehicle over. A police officer had been in the area at the time and witnessed me hit the curb. ..."

26. In fact, and contrary to Respondent's explanation, Respondent returned to her ex-boyfriend's home, banged on his door, vandalized his vehicle, and then drove away from the parking lot where he ex-boyfriend's car was parked.

///

///

///

///

///

///

///

///

///

///

///

///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Amanda Susan Piraino for a Registered Nursing License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: April 5, 2011

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SD2011700418  
80479298.docx

RECEIVED  
APR 11 2011  
STATE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS